**THE HON'BLE SRI JUSTICE C.V.RAMULU**

**WRIT PETITION NO.24221 OF 2004**

**Date: 18th September 2006**

Between:

1. V.Rukmini, wife of late V.Appa Rao,
   aged 55 years, Occ: household,
   R/o Yerragunta village, Chandrugonda
   Mandal, Khammam District and another.

.... Petitioners.

And

The Collector (Civil Supplies),
Khammam, Khammam District.

.... Respondent.

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**ORDER:**

This writ petition is filed seeking a writ of Certiorari calling for records relating to M.C.No.111 of 1995 dated 30.11.2004 passed by the respondent and to quash the same declaring that the petitioner is entitled for refund of an amount of Rs.1,62,420/- from FDR of Rs.2,23,778/- along with interest accrued thereon from 27.4.2001.

2. It appears that for violation of provisions of Section 6-A of the Essential Commodities Act (for short 'the Act'), 65 per cent of the seized stocks were confiscated by an order-dated 18.3.1996 in M.C.No.111 of 1995. Aggrieved by the same, the father of the second petitioner and husband of the first petitioner filed an appeal

under Section 6-C of the Act before the Appellate Authority-cum-Sessions Judge. The same was partly allowed by an order-dated 12.12.2000 by reducing to 50 per cent of variation in stock. The 50 per cent variation of stock comes to 54.45 quintals of paddy, 136 quintals of rice and 99.50 quintals of broken rice. Further, the father of the petitioner No.2 preferred a revision in Criminal Revision Case No.282 of 2001 before this Court against the order passed by the appellate authority and the same was partly allowed by an order dated 11.6.2003 by reducing the confiscation of 50 per cent variation in stocks to 40 per cent variation in stocks. In view of the above, the petitioners made an application-dated 06.4.2004 for release of amounts from the FDRs furnished by his father during pendency of the criminal revision case in this Court for release of the stocks. The father of the petitioner furnished FDR for Rs.2,23,025/- towards value of confiscated stocks in pursuance of the order in Crl.R.C.No.282 of 2001 for release of stocks. Since there was no response, one more application-dated 27.4.2004 was filed for release of the amount. As there was no response from the respondent, he filed writ petition No.19610 of 2004 before this Court. The said writ petition was disposed of on 03.11.2004 directing the respondent to consider the representation of the petitioners dated 27.4.2002 for refund of the value of the seized stock in terms of order of this Court in Crl.R.C.No.282 of 2001 dated 11.6.2003.

3. It is the complaint of the petitioners that the respondent, without considering the representation of the petitioners, passed the impugned order directing to pay an amount of Rs.56,094/- +

interest at 10 per cent per annum from 27.4.2001 to the respondent, as such, the action of the respondent is illegal and arbitrary. It is their case that 6-A proceedings ended directing confiscation of 40 per cent of variation of stock and order for refund of the remaining stock or its value vide order dated 11.6.2003 in Crl.R.C.No.282 of 2001. Once this is so, the respondent cannot calculate 40 per cent of the total stocks seized. Therefore, the petitioners are entitled for refund of remaining amount after deducting 40 per cent of variation of stock.

4. The order passed by the Sessions Judge clearly shows that the order passed by the Collector is modified ordering confiscation of 50 per cent of the variation and not the entire stock. So the variation of stock i.e., 108.90 quintals of paddy, which is found at the time of checking, comes to 54.45 quintals of paddy. Similarly with regard to variation found in rice of 272 quintals, 136 quintals of rice was ordered to be confiscated. Likewise, the variation found in broken rice of 199 quintals, 99-50 quintals of the same was ordered to be confiscated. This modified order has been confirmed to that of confiscation of 40 per cent of variation of stock. Therefore, there is no ambiguity in the orders passed by the Sessions Judge or this Court.

5. Therefore, the writ petition is allowed as prayed for. No order as to costs.

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**C.V.RAMULU, J.**

Date: 18th September 2006.
BSB